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 7
UNITED STATES DISTRICT COURT
 8
EASTERN DISTRICT OF WASHINGTON
 9

10 R.W., individually and on behalf of his
 11 marital community,

Cause No. _____

COMPLAINT FOR DAMAGES

12 Plaintiff,
 13

14 v.
 15

16 COLUMBIA BASIN COLLEGE, a
 17 public institution of higher education,
 18 RALPH REAGAN, in his official and
 individual capacities, LEE THORNTON,
 in his official and individual capacities.

19 Defendants.
 20

PARTIES, JURISDICTION & VENUE

21 1. Plaintiff R.W. ("R.W.") has resided in Richland, Washington, at all
 22 times relevant hereto. All of the acts attributable to R.W. herein were done on
 23 behalf of his marital community. R.W. desires to proceed under a pseudonym to
 24

protect against harassment, injury, ridicule or personal embarrassment as this matter involves R.W.'s treatment based on disability and mental health.

2. Columbia Basin College (“CBC”) is a Washington public institution of higher education established under the Revised Code of Washington (RCW) 28B of the statutes of the State of Washington.

3. Ralph Reagan ("Reagan") is an individual residing in the Eastern District of Washington and at all times relevant hereto was the Assistant Dean of Students for CBC. He is sued in his official and individual capacities.

4. Lee Thornton (“Thornton”) is an individual residing in the Eastern District of Washington and at all times relevant hereto was the Interim President of CBC. He is sued in his official and individual capacities.

5. The Court has jurisdiction pursuant to 28 U.S.C. § 1331 as this civil action arises under the Constitution, laws, or treaties of the United States.

6. Venue in this matter is proper under 28 U.S.C. 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in the Eastern District of Washington.

FACTS

7. R.W. was a student matriculated at Columbia Basin College (“CBC”) beginning in September 2011.

1 8. R.W. is a disabled individual who suffers from chronic back pain,
2 epilepsy, insomnia, anxiety and depression.
3

4 9. R.W. was enrolled in the nursing program at CBC.
5

6 10. Prior to March 2017, R.W. had taken a leave of absence from the
nursing program based on a family illness.
7

8 11. Under CBC policy, if a nursing student takes more than one absence
from the nursing program, the student is obligated to re-take all courses to receive
9 a degree in the field.
10

11 12. As of the Spring 2017 quarter, R.W. was one quarter away from
graduating with his bachelor of science degree in nursing.
12

13 13. On or about February 28, 2017, R.W. contacted his private physician,
Dr. Michael Cabasug, seeking an appointment to address R.W.'s bout of insomnia.
14

15 14. On or about March 6, 2017, R.W. met with Dr. Cabasug at his
scheduled appointment regarding his insomnia. At the appointment, R.W. notified
16 Dr. Cabasug of aberrant thoughts of physically harming an instructor at CBC.
17

18 15. During the appointment, Dr. Cabasug encouraged R.W. to receive
voluntary inpatient treatment for his depression and related violent thoughts.
19

20 16. Dr. Cabasug contacted the County Designated Mental Health
Provider, Crisis Response.
21

1 17. R.W. accepted the recommendation of Dr. Cabasug and admitted
2 himself to the Lourdes Medical Center Transitions mental health crisis triage
3 center for evaluation and treatment.
4

5 18. At no point did R.W. convey any thoughts of violence to a person
6 other than his medical providers.
7

8 19. At no point did R.W. engage in any conduct to place another in a
9 reasonable apprehension of harm.
10

11 20. Unbeknownst to R.W., Lourdes informed the Pasco Police
12 Department which informed CBC of R.W.'s conversation with Dr. Cabasug,
13 including the aberrant thoughts of violence against R.W.'s instructor.
14

15 21. Dr. Cabasug informed CBC that he has been R.W.'s primary care
16 provider since 2012 and that R.W. did not pose a threat to any CBC faculty.
17

18 22. On March 7, 2017, CBC issued a Trespass order to R.W. The order
19 was issued by Student Conduct Officer ("SCO") Ralph Reagan.
20

21 23. The correspondence falsely alleged that R.W. had made threats to kill
22 several CBC employees and further incorrectly alleged that R.W.'s private
23 conversation with his physician constituted abusive conduct, meaning "[p]hysical
24 and/or verbal abuse, threats, intimidation, harassment, online harassment, coercion,
25 bullying, cyberbullying, retaliation, stalking, cyberstalking, and/or other conduct
26

1 which threatens or endangers the health or safety of any person or which has the
2 purpose or effect of creating a hostile or intimidating environment.”
3

4 24. The trespass order prevented R.W. from attending class and
5 completing his courses at CBC.
6

7 25. R.W. received “incomplete” grades in his course based on his inability
8 to continue his courses due to the trespass order.
9

10 26. On March 9, 2017, R.W. submitted a request appealing the trespass
11 order issued by CBC.
12

13 27. On March 14, 2017, CBC’s Student Appeals Board (“SAB”) denied
14 the appeal.
15

16 28. On March 22, 2017, R.W. appealed the denial to the office of the
17 President for CBC.
18

19 29. On March 28, 2017, CBC suspended R.W.’s financial aid on the basis
20 that he could not complete his course based on his trespass from campus.
21

22 30. On April 19, 2017, a letter from Lee Thornton as interim president of
23 CBC lifted the trespass order for the Pasco CBC campus with conditions.
24 However, R.W. remained trespass from the Richland campus where the nursing
25 program courses take place.
26

27 31. The next day on April 20, 2017 the Assistant Dean of Students for
28 CBC, Ralph Reagan, affirmed that R.W. was “responsible for violating our policy
29

1 on Abusive Conduct" and affirming the trespass order in regard to the Richland
 2 CBC campus where the nursing program was conducted. The correspondence also
 3 placed further restrictions on R.W. if he "[chose] to re-enroll at CBC."
 4

5 32. On May 4, 2017, R.W. further appealed the decision of Ralph Reagan
 6 to the student appeals board and board of trustees for CBC.

7 33. On May 24, 2017, the Student Appeals Board affirmed the decision
 8 issued by Ralph Reagan on April 20, 2017.
 9

10 34. On June 7, 2017, R.W. appealed the May 24, 2017 affirmation to
 11 CBC Office of President.

12 35. On June 12, 2017, Lee Thornton as President of CBC affirmed the
 13 sanctions issued against R.W.
 14

15 36. Based on the wrongful finding of abusive conduct in violation of the
 16 Americans with Disabilities Act, the Rehabilitation Act, and R.W.'s First
 17 Amendment Rights, R.W. suffered damages in the form of inability to compete his
 18 degree, his future earnings, and non-economic damages.
 19

20 37. Further, CBC impaired R.W.'s contractual rights based on his exercise
 21 of civil rights.
 22

23 //

24 //

CAUSES OF ACTION

42 U.S.C. § 1983 - Ralph Reagan and Lee Thornton, Individual Capacities

38. Under the color of law, as applied, Ralph Regan and Lee Thornton deprived R.W. of his rights, privileges, or immunities under the First Amendment and the Equal Protection Clause of the 14th Amendment by categorizing his private, one-on-one discussion with his physician as abusive conduct in violation of the First Amendment, and thereafter subjecting him to trespass and expulsion based on that categorization.

39. Under the color of law, Ralph Regan and Lee Thornton deprived R.W. of his clearly established rights, privileges, or immunities under the First Amendment and the Equal Protection Clause of the 14th Amendment, causing injury to R.W.

Prospective Injunctive Relief – CBC; Ralph Reagan and Lee Thornton, Official Capacities

40. Under the color of law, as applied, Ralph Regan and Lee Thornton deprived R.W. of his rights, privileges, or immunities under the First Amendment and the Equal Protection Clause of the 14th Amendment by categorizing his private, one-on-one discussion with his physician as abusive conduct in violation of the First Amendment, and thereafter subjecting him to expulsion based on the categorization.

41. R.W. is entitled to prospective injunctive relief against CBC, Reagan and Thornton in their official capacities under *Ex Parte Young*, 209 U.S. 123 (1908) to enjoin their violations of R.W.'s rights under the First Amendment and the Equal Protection Clause of the 14th Amendment.

Washington Laws Against Discrimination RCW 49.60 – Disability Discrimination – All Defendants

42. R.W. is a disabled individual.

43. CBC is a place of public accommodation.

44. R.W. was treated disparately from nondisabled persons at CBC.

45. R.W.'s disability was a substantial factor causing the discrimination.

42 U.S.C. § 12132 and 29 U.S.C. § 794

46. CBC is a department, agency, special purpose district, or other instrumentality of a State or States or local government.

47. R.W. was a qualified enrollee/participant at CBC as a program or activity subject to 42 U.S.C. § 12132 and 29 U.S.C. § 794.

48. CBC trespassed R.W. from campus and prevented him from completing classes based on R.W.'s disability.

49. But for R.W.'s disabilities, CBC would not have trespassed R.W. from campus and prevented him from completing his course work

50 R W suffered damages as result of CBC's wrongful conduct

51. CBC further required R.W. to undergo risk assessments, allow access to all medical records, and required numerous follow-up meetings and discussions with R.W. as a condition of possible future re-enrollment.

52. The only reason CBC required R.W. to be subject to these conditions was because of Plaintiff's previous diagnosis of depression.

53. CBC discriminated against R.W. by expelling him, trespassing him from campus and making his possible future re-enrollment contingent upon Plaintiff submitting to undesired medical testing and by subjecting R.W. to the mandatory risk assessment solely on the basis of his disability.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray as follows:

1. An injunction lifting the trespass order related to R.W., enjoining CBC from requiring R.W. to retake all courses to complete his degree, and preventing CBC from requiring Plaintiff to obtain medical care and make regular reports of his medical treatment as a condition of re-enrollment;

2. An order allowing R.W. to proceed under a pseudonym.

3. Compensatory, punitive and/or nominal damages to be proven at trial;

4. For an award of attorney fees and costs allowed by law or agreement
 ing those provided under 42 U.S.C. § 1988; 42 U.S.C. § 12205, 29 U.S.C. §
 or RCW 49.60.030;

5. For all other relief the court deems just and equitable.

DATED this 25th day of May, 2018.

s/Eric B. Eisinger

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